

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CHRISTIAN OSEGUEDA,

Petitioner,

v.

RANDY GROUNDS,

Respondent.

NO. CV 12-6250-JVS (AGR)

ORDER ACCEPTING FINDINGS  
AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE  
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the petition, records on file, and the Report and Recommendation of the United States Magistrate Judge. Further, the Court has engaged in a *de novo* review of those portions of the Report to which Petitioner has objected. The Court accepts the findings and recommendation of the Magistrate Judge.

The Magistrate Judge found the petition to be time-barred. Petitioner's conviction on direct review was final on May 30, 2006. (Report at 3.) Petitioner is not entitled to statutory tolling. (*Id.*) Petitioner argues he is entitled to equitable tolling because of advice given to him by a law school student at the California Western School of Law California Innocence Project. (Objections at 2.)

1 According to Petitioner, the student “strongly suggested that Petitioner should not  
2 file his [habeas] petition in any state court, because if the case was denied, [the  
3 Innocence Project] wouldn’t be able to help any more.” (*Id.* at 2-3 (citing Ex. E).)  
4 However, Petitioner omits a material part of the student’s “advice”: “[W]e need to  
5 caution you about filing any pro per writ petitions in state court. If you file such a  
6 petition and lose, it may prevent us from later raising a claim on your behalf. As a  
7 result I ask that you please not file any petitions in state court *without first*  
8 *consulting me.*” (Objections, Ex. E (emphasis added).) The letter from the  
9 student is dated September 17, 2010, and there is no indication that Petitioner  
10 ever consulted with the student or anyone else at the Innocence Project about  
11 filing state habeas petitions. (*Id.*) Petitioner did not file his first state habeas  
12 petition in the California Court of Appeal until January 30, 2012, over a year after  
13 the letter from the law school student. See California Online Appellate Court  
14 Case Information online in Case No. B238749.

15 Moreover, Petitioner does not explain why he waited over six years after  
16 his conviction became final to file the instant federal petition. The petition’s four  
17 grounds were all raised on direct review. *Compare* Petition at 5-6 *with People v.*  
18 *Osegueda*, 2005 WL 3485502 (2005).

19 Petitioner’s remaining objections have no merit.

20 IT IS ORDERED that judgment be entered denying the petition and  
21 dismissing this action with prejudice.

22  
23 DATED: November 15, 2012



24 JAMES V. SELNA  
25 United States District Judge  
26  
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